

1 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
2 AT TACOMA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 CALEB JESSE CHAPMAN,

Defendant.

Case No. MJ21-05185

DETENTION ORDER

7 THE COURT, having conducted a detention hearing pursuant to 18 U.S.C.

8 Section 3142, finds that no condition or combination of conditions which defendant can
9 meet will reasonably assure the safety of any other person or the community; nor are
10 there conditions that would reasonably assure the defendant would be less likely to fail
11 to appear for court proceedings. The defendant is represented by Assistant Federal
12 Defender John Carpenter. The government is represented by Assistant United States
13 Attorney Kristine Foerster.14 Mr. Chapman is charged with Assault by Striking, Beating or Wounding his
15 companion, A.J. Dkt. 1, Complaint, at p.3. The government filed a motion for detention
16 (Dkt. 4), and accompanying documents, (Dkt. 8) asserting that if released, Mr.
17 Chapman would pose a risk of obstruction of justice, and risk of dangerousness to
18 others and to the community.19 The Court heard information and argument presented during the hearing on
20 September 7, 2021, and information provided by Pretrial Services, including the pretrial
21 services reports (Dkts 7, 9).22 The four factors the Court must consider under the Bail Reform Act are: 1.
23 nature and seriousness of the charges; 2. weight of the evidence against the
24 defendant; 3. history and characteristics of the defendant; and 4. "nature and
seriousness of the danger to any person or the community that would be posed by

1 the person's release." 18 U.S.C. § 3142(g)(1)-(4). The Bail Reform Act recognizes
2 that release should be the normal course, and "detention prior to trial or without
3 trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755
4 (1987). In evaluating whether the defendant poses a serious potential for
5 dangerousness, it is not necessary for the Government to produce, or for the Court
6 to rely on, evidence of prior convictions for violent crimes. *United States v. Hir*, 517
7 F.3d at 1091-92; *United States v. Rodriguez*, 950 F.2d 85, 88-89 (2d Cir. 1991).

8 In this case, the government met its burden of proving by a preponderance of the
9 evidence that the defendant presents a significant risk of failure to appear, based on the
10 defendant's history of repeated criminal conduct showing he has a pattern of not
11 conforming his behavior to the law, the circumstances of his attempts to avoid arrest,
12 and a history of domestic violence protection orders. Dkt. 8, Memorandum in Support of
13 Motion for Detention; Dkt. 9, Supplemental Pretrial Services Report.

14 The Court also finds the government met its burden of proving by clear and
15 convincing evidence that the defendant presents a significant risk of danger to
16 others or to the community, including a significant risk of obstruction of justice. The
17 defendant has a domestic violence history of protective orders based on
18 allegations of harmful physical conduct against partners -- first during 2017, based
19 on conduct regarding his wife and family (his wife is deceased) in connection with
20 divorce proceedings; and, at present, regarding the current charges that involve
21 an alleged assault on his girlfriend. Dkts. 8, 9.

22 The record shows that while charges were pending (see Dkt. 9 at p.5) with
23 the Clallam County Superior Court for an offense concerning leaving his children
24 unattended, Mr. Chapman allegedly committed the instant offense of assault

1 against his girlfriend, A.J. Dkts. 8 , 9. The Complaint states that after he discovered
2 that A.J. called the police, he behaved violently toward her; during the time he was
3 behaving violently toward A.J., Mr. Chapman told her to shut up. Dkt. 1, at p.3; Dkt.
4 8 at p.6. Mr. Chapman also has prior civil restraining orders for domestic violence.
5 Dkt. 8, 9. The petitions by Ms. Chapman in 2017, concerning conduct by defendant
6 against his wife and three minors, included allegations of strangulation, physical
7 assaults, and verbal threats that he would use an AR 14 rifle against her. Dkt. 8 at
8 p. 7.

9 Even with conditions by which the defendant's whereabouts could
10 potentially be monitored, the Court finds that there are no conditions of release
11 that would effectively mitigate the potential for failure to appear, flight to avoid
12 prosecution, or failing to comply with conditions of supervised release pending trial.
13 And Mr. Chapman's history of prior civil restraining orders for domestic violence
14 shows that he has not demonstrated law abiding behavior in the community.
15

16 The defendant has ties to the community, and significant family support. During
17 the hearing, the defense and the Pretrial Services Officer proposed that Mr. Chapman
18 should be supervised electronically in his mother's home, located in Forks, Washington.
19 Dkt. 9. The Court finds this would not be a viable release plan under the Bail Reform
20 Act, because the Court cannot effectively prevent the defendant from obtaining
21 controlled substances (methamphetamine use is described by the government and also
22 by the defense, as being a long-term challenge for Mr. Chapman), or from leaving this
23 location. Mr. Chapman's mother has a job and would not be in the home to give him a
24 structured environment.

Mr. Chapman has economic ties to the community, although he is not employed,

1 he owns real property. Dkt. 9.

2 Even with electronic location monitoring, the defendant would potentially be able
3 to obtain contraband from others and would not be in a locked facility – the Court finds
4 that a locked facility is necessary to protect the community. Mr. Chapman allegedly
5 started a fire in Olympic National Park, allegedly used violence against A.J. when she
6 tried to contact authorities, and allegedly disabled an emergency services
7 communication device in the National Park. Dkt. 1; Dkt. 8 at pp. 6-8. Even with
8 conditions by which the defendant's whereabouts could potentially be monitored, the
9 Court finds that there are no conditions, or combination of conditions of release that
10 would effectively mitigate the potential for danger to the community, or risk of
11 obstruction of justice, or non-appearance. Even with diligent supervision by United
12 States Probation and Pretrial Services, including GPS electronic monitoring, the daily
13 activities of the defendant cannot be supervised to prevent access to contraband. Nor
14 would the probation and pretrial services professionals be able to control other people
15 who might come to the residence where the defendant may be residing.

16 The Court finds: The government met its burden of proving by a preponderance
17 of the evidence that the defendant presents a significant risk of failure to appear, based
18 on his attempts to avoid arrest in the instant case. The government also met its burden
19 of proving by clear and convincing evidence that the defendant presents a significant
20 risk of danger to others and to the community, and there are no condition or
21 combination of conditions which defendant can meet that will reasonably assure the
22 safety of any other person and the community, or the appearance of the defendant.

23 This finding is based on:

- 24 1) the nature and circumstances of the offense(s) charged,
2) the weight of the evidence against the person;

1 3) the history and characteristics of the person;
2 4) criminal history;
3 5) attempting to avoid arrest concerning the instant offense; and
4 6) the nature and seriousness of the danger release would impose to any person or the
5 community, including a history of repeated violent behavior and committing new
6 offenses while prior charges were pending.

7

8 *Order of Detention*

9

- 10 < The defendant shall be committed to the custody of the Attorney General for
11 confinement in a corrections facility separate, to the extent practicable, from
12 persons awaiting or serving sentences or being held in custody pending appeal.
13 < The defendant shall be afforded reasonable opportunity for private consultation
14 with counsel.
15 < The defendant shall on order of a court of the United States or on request of an
16 attorney for the Government, be delivered to a United States Marshal for the
17 purpose of an appearance in connection with a court proceeding.

18 Dated this 7th day of September 2021.

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22 Theresa L. Fricke
23 United States Magistrate Judge